

ARTHAŚĀSTRA AND DHARMAŚĀSTRA — TWO TRADITIONS

The discovery of the so called *Arthaśāstra* of *Kauṭilya* by R. Shamasastri in the beginning of XX century made it possible to adopt in many respects a new approach to the study of the ancient Indian literature and to take a fresh look at the genre of *dharmaśāstra*. This discovery is connected with the birth of a wide range of new scientific trends investigating the relations between *arthaśāstra* and *dharmaśāstra*. The results of the research of both literature-genres may be convinced by the acquaintance with the works published after the discovery of the *Arthaśāstra* and contained by comprehensive *Bibliography on dharma and artha in Ancient and Mediaeval India* by L. Sternbach¹.

A new structural-terminological method of investigation of literary monuments observed in several latest essays makes it possible to research the evolution of *arthaśāstra* and *dharmaśāstra* in its various spheres and to approach to the answer the raised questions, viz. how both genres were composed and how they functioned, why appeared and from which sources might be formed. Thus we face not only with the necessity to include *arthaśāstra* and *dharmaśāstra* in the complex of diverse works of different times called the ancient Indian literature but also with the necessity to give a functional characteristic to the whole literature as to an indivisible aggregate.

I have tried to solve three problems in my essays: the functioning of juridical terms in juridical and non-juridical contexts of *śāstras* and commentaries as well as the functioning of the terms outside the sources in practice of property relations, and the functional evolution of juridical stuff as a complex of ideas on the whole in the juridical and non-juridical literature. An attempt to solve two first problems was

1. L. STERNBACH, *Bibliography on dharma and artha in Ancient and Mediaeval India*, Wiesbaden, 1973.

made in my monograph published two years ago². The solution of the last one may be simplified if we follow the originality of the juridical terminology of *arthaśāstra* and *dharmaśāstra* as a completed balanced system of notions and if we follow its origin. Moreover I shall touch on some peculiarities of the integration of both literature-genres and the problem of the sources of law of each of them. In the article I shall try to give in brief my general idea on the last question. I suppose the functioning of terms is of major importance for the investigation of the object of this sort and investigation of the functioning surely will throw a light on the functioning of the texts themselves.

The terms *karāṇa*, *svakarāṇa*, *deśa*, *sākṣin* and *bhoga* are the most important ones in the system of the juridical argumentation of the *Arthaśāstra*. Another terminology occurs in *dharmaśāstras*. There *pramāṇa* (*pramāṇam trividham*, i.e. a triple juridical authority meaning document, witness and use in order of their significance) and *āgama* are the most important notions. In the *Arthaśāstra* *karāṇa* implies «juridical authority», «proof» as it is pointed out in III.1.17 where the plaintiff and defendant give in court their *karāṇas*. The same meaning the term *karāṇa* has in III.1.19 where it is explained as verbal or documentary evidence. In trial *nirṇaya* (sentence) was produced after an examination of *karāṇas*. *Karāṇa* is mentioned in III.12.37-38 where an artisan takes a material for manufacture (*nikṣepa*). In the following text *nikṣepa* should be interpreted as a deposit as well. It is said in III.12.53 that transactions with *nikṣepa* (material for manufacture and a deposit) must be striked in the presence of witnesses: *tasmātsākṣinadacchannam kuryāt...* to avoid the situation mentioned in III.12.37 where a transaction with *nikṣepa* was striked in absence of *karāṇa*, i.e. witnesses. Taking into account that in III.1.17 and below a non-legalized user (for example, of *parakṣetra* — another's field) may appear for the defence his *bhoga/bhukti*, i.e. use under some circumstances may be *karāṇa* as well. In *dharmaśāstras* *pramāṇam trividham* is analogous to *karāṇa* in the *Arthaśāstra*. *Pramāṇa* is mentioned, for instance, in the *Yājñavalkyasmṛti* II.22 and *Nāradaśmṛti* I.65. The *Yājñavalkyasmṛti* says: *pramāṇam likhitam bhuktiḥ sākṣinaśceti kīrtitam*. This term is considered in the second text of the *Nāradaśmṛti* in the following way: *likhitam sākṣino bhuktiḥ pramāṇam trividham viduḥ*. The conception of *pramāṇa* as a triple-term juridical authority through which belongings are being acquired or the rights to them are being proved is a traditional one. It was composed long before the composing of the *Manusmṛti* and *Yājñavalkyasmṛti*.

The conception of *āgama* in *dharmaśāstra* was investigated by me previously³ and the etymology of this term is examined in an essay

2. A. M. SAMOZVANTSEV, *Teoriya sobstvennosti v drevney Indii* (The Theory of Property in Ancient India), Moscow, 1978.

3. A. M. SAMOZVANTSEV, *Teoriya sobstvennosti*, Ch. I.

which is under publication. In *dharmaśāstras* *āgama* is a title of ownership and it is interpreted as a combination of *pramāṇas*, i.e. *pramāṇa* must be seen as a carrier of *āgama*. In the *Arthaśāstra* this term has another sense, namely legal acquisition, transaction. A transaction of this sort may lead to acquiring of belongings in legal property or in legal possession which are differentiated in the text (see IV.6.7-8).

Deśa and other terms mentioned in III.1.15 are integral parts of any law action, a transaction first of all. The same term *deśa* occurs in III.16.29 where it is said that the prescription leads to the loss of *deśas*. In this context *deśa* is intended to imply a title of ownership, so the rights of owner over his belongings (usually a plot) were lost through use of non-legalized user.

The text IV.6.9 is of major importance for the understanding of a notion the carrier of which was the term *deśa*. It is pointed out in this *Arthaśāstra*'s text that the legality of *āgama*-transaction may be proved in trial through *śucirdeśa* — « honest evidence » (in III.1.15 *śuddhadeśa* — « pure evidence ») or through *dirghaparibhoga* — « lasting use ». *Deśa* is explained as a proof in text III.1.19 and we may conclude that mostly document and rarely witness were covered by this term. This supposition seems to be truthful for *karaṇa* in III.1.19 divides into *deśa* and *sākṣin*, i.e. documentary and verbal evidences. The same division is fixed in the similar context describing legal procedure in IV.9.14-15. According this text: *prcchyaṃ na prcchati, aprcchyaṃ prcchati... madhyamamasmai sāhasadaṇḍaṃ kuryāt / deyaṃ deśaṃ na prcchati, adeyaṃ deśaṃ prcchati, kāryamadeśenātivahayati... uttamamasmai sāhasadaṇḍaṃ kuryāt* (compare the using of verbs in forms *prcchyam-aprcchyam, deyam-adeyam*), i.e. when a judge does not examine a person which shall be examined or examines a person which shall not be examined he pays the first *sāhasadaṇḍa*; when a judge does not inquire after a documentary evidence which shall be offered in trial or when he inquires after a documentary evidence which shall not be offered in trial or delays a law-suit by means of a document which is not a proof he is fined by *uttama sāhasadaṇḍa* (highest fine). *Deśa, adeśa* are considered in III.1.19 side by side *hīnadeśa*, i.e. incorrect, « weak » document as well. In III.1.15, IV.6.9 *deśa* means both document and witness, but it may be explained by circumstances. In the system of juridical terminology of the *Arthaśāstra* *deśa* and *sākṣin* are differentiated as documentary and verbal evidences. We should take into account that although the term *sākṣin* is mentioned in divisions III-IV of the treatise the terms of *lekhyā*- or *likhita*-type which means a document in *dharmaśāstras* are absent there. We may logically conclude that in the *Arthaśāstra* the term *deśa* means just a document. It is known that the opposition of *deśa* — *bhoga* in III.16.29 is usually considered by compilers of *dharmaśāstras* and commentators as that one of *āgama* (document) — *bhoga* (use), j.e. of title of ownership and possession-use.

Since in IV.6.8 the transactions should be understood to imply *āgama*, the latter may be considered as *ādhāna* (mortgaging), *kṛaya* (purchase) and *pratigraha* (getting of gift). In accordance to that *deśa* may be *svakaraṇa* — a proof of ownership (i.e. purchase-deed or settlement) or *ādhilekhyā* (mortgage), if there is a demand to prove the right to possess a pledge. Naturally *deśa* must be *śuci* — *śuddha*, i.e. the document must be drawn up according to necessary demands and a man whose evidence in court will be considered valid must be a witness. It means that besides his evidences in court must be valid he also must be capable at the present moment — *saṃpūrṇācāra* (see III.1.15; *saṃpūrṇācāra* is explained in III.1.13).

Svakaraṇa is just a proof that proves an ownership. So, it is said in IV.1.54-55: *paurvapauruṣikaṃ nidhiṃ jānapadaḥ śuciḥ svakaraṇena samagraṃ labheta / svakaraṇābhāve pañcaśato daṇḍaḥ, pracchannādāne sahasraṃ*, i.e. one which found a treasure becomes its owner after his *svakaraṇa* confirms his rights to the thing. In absence of *svakaraṇa* he is imposed the fine on and if he hides a treasure the fine increases twice as much (500-1000 *paṇas*).

The carriers of *svakaraṇa* could be documents and witnesses for an acquisition into property of movables was legalized in the presence of witnesses and that of immovables — by means of drawing up a document. *Svakaraṇa* has the similar semantics in *āgama* of *dharmaśāstra*. The *Arthaśāstra* (III.16.17-19) says: *naṣṭikaśca svakaraṇaṃ kṛtvā naṣṭa-pratyāhṛtaṃ labheta / svakaraṇābhāve pañcabandho daṇḍaḥ / tacca dravyaṃ rājadharmyaṃ syāt*, i.e. an owner, belongings of which were lost, after finding them out may recover them by *svakaraṇa*. If there is no *svakaraṇa* he pays a fine equal to fifth part of the price of the belongings and they become the property of a king. This text borrowed by compiler of the *Yājñavalkyasmṛti* II.175 tells us: *āgamenopabhogena naṣṭaṃ bhāvyamato'nyathā / pañcabandho damastasya rājñe tenāvibhāvite //*. Quite evidently the compiler of the *Yājñavalkyasmṛti* replaces the term *svakaraṇa* by the term *āgama*. The text of the *dharmaśāstra* quoted above is similar to that of the *Arthaśāstra* IV.6.9 where the recovery of a lost thing with the help of *śucirdeśa* or *dirghaparibhoga* is meant as well (*upabhoga* of the *Yājñavalkyasmṛti*, of course, is analogous to *dirghaparibhoga* of the *Arthaśāstra*): *yasya pūrvo dirghaśca parabhogah śucirvā deśastasya dravyamiti vidyāt*. From the text we may conclude that *āgama* of the *dharmaśāstra* is equal to *deśa* of the *Arthaśāstra*, i.e. *āgama* of *dharmaśāstras* is not equal to that one in the *Arthaśāstra* — in the last text *āgama* must be considered as a transaction but in *dharmaśāstras* it is a proof. The analysis of texts of *dharmaśāstras* and commentaries carried out by me previously shows that *āgama* expressed in the system of *pramāṇaṃ trividham* proves the right of property and not the right of possession. This *āgama* is equal to *svakaraṇa* of the *Arthaśāstra* and the carrier of the last term is *deśa* (proof).

Although *āgama* in the *Arthaśāstra* is replaced by *deśa* semantics of that last term does not correspond to that one of notion *svakaraṇa*. It is small wonder since in *dharmasāstras* *pramāṇa* — a carrier of notion *āgama* also often means notion *āgama* itself. It can be observed, for example, in the commentary of *Viśvarūpa* on the *Yājñavalkyasmṛti* II.175: *āgame nālekhyādīnā prakāśamaskhalitacirabhogena vā naṣṭaṃ dravyamānyahastagataṃ madīyamityevaṃ bhāvyam*, i.e. the rights to a thing which is lost and in another's possession may be proved — « this is mine » — by means of *āgama*, i.e. a document and so on, or by means of public, uninterrupted and lasting use. The formula « *āgama* is *pramāṇa* » (i.e., for example, document) is usually used by commentators. I suppose *suddhadeśa* (*suddhasvakaraṇa*) is similar to *suddhāgama* in the commentaries of *Govindarāja* on the *Manusmṛti* VIII.200 and *Viśvarūpa* on the *Yājñavalkyasmṛti* II.29 not by accident. This *āgama* is mentioned in the text of *Manusmṛti* VIII.200 and in the *Yājñavalkyasmṛti* II.27. The first text's compiler writes: *saṃbhogo dṛśyate yatra na dṛśyetāgamah kvacit / āgamah kāraṇaṃ tatra na saṃbhoga iti sthitiḥ //*. According to the second one: *āgame'bhyadhiko bhogādvīnā pūrvakramāgatāt / āgame'pi balaṃ naiva bhuktiḥ stokāpi yatra no //*. The etymology of both the terms — *svakaraṇa* and *āgama* — is one and the same — « acquiring », « appropriation to oneself ».

In my opinion, the above observations make it possible to introduce some essential corrections to discourses of R. P. Kangle concerning the juridical terms of the *Arthaśāstra*. R. P. Kangle notes: « Evidence to be submitted in a court of law appears to be called *deśa* (3.1.19 etc.). It evidently refers to all kinds of evidence, documents, witnesses and so on. The word *deśa* is also used in the text in the sense of « title », that which establishes ownership over a thing (3.16.29, 4.6.9). That may will have been its original meaning. Another word for evidence is *karāṇa*. More often than *deśa*, it refers to a person's title or proof of ownership, as in *svakaraṇa*. In own or two places *karāṇa* appears to refer to documentary evidence as when it is said that in all transactions, except in the case of pledge (*ādhi*) and commission (*ādeśa*) a later *karāṇa* cancels the earlier ones (3.1.16) or that artisans are generally dishonest, since there no *karāṇa* made before they accept an article for manufacture (3.12.36-37) »⁴. Here I must note, for example, that despite R. P. Kangle's opinion the word *karāṇa* in III.1.16 does not mean a documentary evidence but rather a law action taking into account that *ādhi* (pledge) and *ādeśa* (commission) in accordance to the logic of the text are observed by compiler as the same *karāṇas*, i.e. law actions (evidently, transactions). Moreover according to text III.11.27 when anybody accepted a promissory note this transaction was legalized by the presence of witnesses and the fact excludes the interpretation of *karāṇa* as of just a documentary evidence. R. P. Kangle himself considers *ādhi* and

4. R. P. KANGLE, *The Kauṭīliya Arthaśāstra, Pt. III, A Study*, Bombay, 1965, p. 218.

ādeśa to be transactions (see above about meaning of *karāṇa* in III.12.36-37).

Since these two peculiar systems of juridical terms were the basis of law ideas of *arthaśāstra* and *dharmaśāstra* we may call the terms the matrices of law texts and regard the systems as the dominant ones and very stable. In my opinion, the constitution of the systems was preceded by a long development of juridical tradition of both literature-genres. There is no doubt that the juridical terminology of the *Arthaśāstra* was elaborated in schools of *arthaśāstra* and stated in sources of *arthaśāstra*-genre which haven't reached us. In similar way the terminological tradition of *dharmaśāstra* was probably elaborated in schools of compilers of *dharmaśūtras*. It is in *dharmaśūtras* where we find for the first time the formula of triple juridical authority mentioned in the *Vasiṣṭhadharmaśūtra* XVI.10: *likhitam sākṣiṇo bhuktiḥ pramāṇam trividham smṛtam / dhanasvīkarāṇaṁ pūrvam dhanī dhanamavāpnuyāditi*, i.e. by means of *pramāṇa* after an acquisition of a thing into property, in other words after a transaction (or *āgama* corresponding to the original meaning of *svīkarāṇa*) an owner gets the thing at his disposal (compare the *Nāradaśmṛti* I.65 *Bhāvasvāmīn's* reading: *dhanasvīkarāṇe yena dhanī dhanamupāśnute*; the reading of *Asahāya* (I.69) corresponds to that one of the *Vasiṣṭhadharmaśūtra* excluding *yena* instead of *pūrvam*). These texts are of major importance for the explanation of the etymology of the terms *āgama* — *sva(svī)karāṇa*. As regards the evolution of the system *pramāṇam trividham* from the point of view of its functioning I research it in another essay which is under publication.

In the *Arthaśāstra* the term *pramāṇa* occurs in the same more abstract meanings of juridical authority as in *dharmaśūtras*. For example, in III.2.10 the compiler says: *pitṛpramāṇāścatvāraḥ pūrve dharmyāḥ, mātāpitṛpramāṇāḥ śeṣāḥ*, i.e. dharmic marriage demands a permission of the bride's father, other marriages — of her father and mother (see also IV.1.2). According to III.11.26, III.19.21 evidences of witnesses are considered in court as *pramāṇa* (... *sākṣiṇaḥ pramāṇam*...). The same sense the term accepts in III.12.35, III.18.6. In *dharmaśāstras* the word *pramāṇa*, for example, is of a similar meaning not only in the *Yājñavalkyasmṛti* II.89 (*vināpi sākṣibhirlekhyam svahastalikhitam tu yat / tatpramāṇam smṛtam balopadhikṛtādṛte //*), but also in *dharmaśūtras* — in *Āpāstambadharmaśūtra* where the compiler says: *dharmajñāsamayaḥ pramāṇam* (I.1.2), i.e. according to the translation of J. D. M. Derrett «the Council of knowers of dharma is authoritative»⁵. That means a *pariśad* of knowers of juridical and other texts. *Baudhāyanadharmaśūtra* I.1.2.10, describing *āryavarta*, notes: ... *tasmin yo ācāraḥ sa pramāṇam //* what can be understood as follows: a custom which is followed here is authoritative. According to the *Gautamadharmasūtra* XI.20: *deśajātikuladharmaśca'mnayairaviruddhāḥ pramāṇam //*, i.e. *dharmaś* (customs) of

countries, casts and families (the traditional enumeration saying about the look at the society as the totality of communities of various levels), if they don't contradict to sacred texts, are also *pramāṇa*, i.e. they are juridical authoritative (compare *Manusmṛti* II.13, XI.84).

Before they became themselves this and other juridical terms had to have ritual semantics because of functioning in ritual texts. But their accept of juridical semantics should be explained probably by interaction of *dharmaśāstras* with early *arthaśāstras*. These ritual texts incorporated practically the whole juridical subjects in the limits of *rāja-dharma*. But we must note that the terms remained the same ones, i.e. just the terms became the matrices of the stuff of *arthaśāstra* in *dharmaśāstras*. The process was the main reason for the transformation of *pramāṇa* into *pramāṇaṃ trividham* and so on, perhaps, it began before the first *dharmaśāstra* was composed, i.e. the interaction took place between the early *arthaśāstras* and the sources of *dharmaśāstras* (those *arthaśāstras* had little in common with the *Arthaśāstra* — the last one probably is an unicum text and has not analogous). I call it integration of *arthaśāstra* and *dharmaśāstra* «A». In many cases it is not difficult to see the identity of juridical stuff of *dharmaśāstras* and of the *Arthaśāstra*, and sometimes the similarity is so strong that can not be explained by anything but borrowing from the sources also basic for recomposed texts of divisions III-IV of the *Arthaśāstra*. For example, it is said in the *Arthaśāstra* III.8.1: *sāmāntapratyayā vāstuvivādāḥ* (see *pratyaya* III.9.24, III.11.43, III.13.31, compare with III.12.14), i.e. in disputes the object of which are immovables the witnesses-neighbours are to be entrusted. According to the *Vasiṣṭhadharmasūtra* XVI.13: *gr̥hakṣetravirodhe sāmāntapratyayaḥ*. The word *vāstu* is explained in III.8.2 as house and field first of all. The word *virodha* replaces here *vivāda*. The *Arthaśāstra* III.11.25-26 says: *sampratipattāvuttamaḥ / asaṃpratipattau tu sāksīṇaḥ pramāṇaṃ pratyayikāḥ śucayo' numatā vā trayo' varārdhyāḥ*. The text of the *Gautamadharmasūtra* XIII.1 has the same sense: *vipratipattau sāksīṇī mithyāsatyavyavasthā bahavaḥ syuraninditāḥ svakarmasu pratyayikā...* In accordance with the *Arthaśāstra* III.16.25-26: *paracakraṭāvihṛtaṃ tu pratyāñīya rājā yathāśvaṃ prayacchet / corahṛtaṃ avidyamānaṃ svadravyebhyaḥ prayacchet...* And according to the *Gautamadharmasūtra* X.46-47: *caurahr̥tamupajītya yathāsthanaṃ gamayet / kośādvā dadyād* (perhaps *yathāsthanaṃ* is distorted expression *yathāśvam*, but if it is really so it is no wonder since this *dharmaśāstra* is a later text).

The similarity on the level of models is found between the *Arthaśāstra* and *dharmaśāstra's* *rājadharma* as well. The model of the *Arthaśāstra* implies the seven state's factors (viz. *janapada*, *durga* etc.) which are discovered not only in the *Manusmṛti*, *Yājñavalkyasmṛti*, *Rāmāyaṇa*,

Viṣṇusmṛti, *Nītisara* but also in other texts⁶; a king models a state in *dharmaśāstras*, as it can be seen, for example, in the *Āpastambadharmasūtra* II.25.2-3 and below where the motive of the arrangement by a king of a city, capital and fortress and his house etc. occurs. This micromodel in the limits of *rājadharmā* reproduces the whole idea of *saptāṅga*.

On the other hand, the causes of using the term *pramāṇa* by compiler of the *Arthaśāstra* implies a certain influence of the tradition of *dharmaśāstra* on *arthaśāstras* (comparison of III.11.25, III.19.21 with III.12.37-38 and III.12.53 shows that the term *pramāṇa* has here and there the semantics similar to that one of the term *karāṇa*).

The systems of juridical terminology of *arthaśāstra* and *dharmaśāstra* displays a striking stability. The long process of the evolution of *arthaśāstra* led to the following phenomenon: symbolic system of information (law information in particular) became a stereotype which excludes the using of symbolic terms which already have analogous in the system. So, *arthaśāstras* including in their texts the term *pramāṇa* deprived it of the semantics it had in combination of *pramāṇaṁ tri-vidham*. The semantics of the last term corresponded to that of *karāṇa* in the *Arthaśāstra*. *Pramāṇa* in the treatise had more abstract meaning.

A new stage of the integration of *arthaśāstra* and *dharmaśāstra* (I call it stage «B») was connected with concentrated incorporating of proper *vyavahāra* into *dharmaśāstras*. Here appeared *arthaśāstra* included into *dharmaśāstra* (i.e. *dharmaśāstra-antargatam*). The process explains the composing of the genre of proper *dharmaśāstra*. With the beginning of the process *dharmaśāstras* accept the juridical stuff of the *arthaśāstras*. Besides a new *varṇa*-composition of *dharmaśāstras* the integration of both literature-genres also expressed in including into *dharmaśāstras* of some terms, e.g. *karāṇa* and *deśa*, which are to be considered specific «radioactive tracers» in the *Manusmṛti*. There is no the word *pramāṇa* implying a proof. It appears only in the *Yājñavalkyasmṛti* (II.22, 89 etc.) perhaps as a certain reaction to the including of the stuff of *arthaśāstra*. In the *Manusmṛti* *karāṇa* is the term analogous to *pramāṇa*, and the phenomenon should be discussed in detail.

R. P. Kangle writes in his study of the *Arthaśāstra*: «... the *Manusmṛti* shows its indebtedness to the *Arthaśāstra*, for example, in 8.53-56, which enumerate the causes that lead to loss of suit. A comparison with the *Arthaśāstra*, 3.1.19, leaves hardly any room for doubt that *Manu* reproduced the latter's rules, though in his own words»⁷. In my opinion, there are following parallels between the *Arthaśāstra* (III.1.19) and *Manusmṛti* (A.M.): A. *pūrvoktaṁ paścimenārthena nābhisaṁdhatte* - M.VIII.53(2). *yaścādharaṭṭarānarthānvigitānnāvabudhyate*; A. *pratijñāya*

6. A. M. SAMOZVANTSEV, *Ob interpretatsii glavy «Arthaśāstry» janapadaniveśa* (Interpretation of the janapadaniveśa chapter in the *Arthaśāstra*), in *VDI* (Vestnik drevney istorii or Journal of Ancient History), 3 (1975).

7. R. P. KANGLE, *The Kauṭīliya Arthaśāstra*, pp. 80-1.

deśaṃ nirdiśet yuktā vā nirdiśati. M. VIII.57(1). | sākṣināḥ santi matyuktā
 :diśet yuktā; deśenna yāḥ | A. | bīṇadeśam adeśam vā nirdiśati. M. VIII.53(1).
 :adeśyam (adeśam) | yaśca | diśati | nirdiśyāpadeśyam | yaḥ | A. | apasthite
 :deśe rthavaśanam naimānityapavyayate. M. VIII.54(2). | samyakpranīhitam
 :cārtham | prstih | samābhīnandati | A. | sākṣibhiravadhrtam | necehati |
 :M. VIII.55(2). | nirucyamānaṃ praśnaṃ | ca | nechedyaścāpi | niṣpateḥ | A.
 :asambhāsyē | deśe | sākṣibhirmithah | sambhāṣate | M. VIII.55(1). | asambhā
 :syē sākṣibhiśca deśe | sambhāṣate | mithah | A. | nirdiśād deśād anyam deśa
 :m upasthāpayati | M. VIII.54(1). | apadiśyāpadeśyam | sa | pratyastupadhā
 :vati | (the last parallel seems to be a right one if we take into account
 Bharuci's commentary on the Manusmṛti, one bringing a suit or refuses
 to give one proof in court and gives another one). | There are another
 similar texts in both sources; (see, for example, the Arthasāstra' III.31
 and Manusmṛti VIII.58) |
 The Manusmṛti VIII.51 says: arhet pavyayamānaṃ tu | kardhena
 : vibhavitam | | apayed dhanikasyartham dundaleśam | | sakṛt | | (com
 : pare the Arthasāstra' III.12.38). | J. D. M. Derrett translates the text in the
 following way: 'He shall cause to pay the creditor's due and a small
 : fine according to his means, if he denies a debt proved by a proof'.
 Bharuci's commentary says: | kāraṇam | ca | yat | sandigdha | vaśanti | nitya
 : sādhanam | tad | punaḥ | triprakāraṃ | J. D. M. Derrett translates: 'A 'proof'
 : is a means of arriving at a decision in a contentious matter, which may
 : be of three kinds | | And | Kulūka says in his commentary that | kāraṇa
 : should be understood as | pramāṇam | | trividham | | oḥ | dharmasāstra | i.e.
 : document, witness, ordeal | i.e. | mus | kāraṇam | ca | lekhyasāḥ | sādhyā | divā | (a
 : ordeal was not an element of | pramāṇam | | trividham | but is a | divine proof
 : ment | a | juridical authority | i.e. | pramāṇam | | According to the Manusmṛti
 : VIII.52 | | apahnavet | | dharmakṛtsya | | dehit | | yuktasya | | samasādi | | abhiyoktā | | diśed
 : deśyam | (deśam) | | kāraṇam | | samyaduddiśet | | | J. D. M. Derrett translates: it
 : as follows: 'When a debtor told a court: 'Give! | | refuses to do so,
 : the plaintiff must indicate the | place | | on should point out the proof'.
 But he takes the text's reading | abhiyoktā | diśed | deśam | kāraṇam | mā
 : samuddiśet | in his edition of the Manusmṛti, with the commentary of
 : Bharuci | while to my mind the text's reading indicated above seems
 : to be more preferable. It considers deśa as a kind of kāraṇa (proof)
 : which is synonymously understood by Bharuci and other commentators
 : as document, witness and so on. There is no doubt that the compiler
 : of the Manusmṛti himself realized deśa to be a proof. And besides,
 : though J. D. M. Derrett follows the interpretation of Bharuci in the
 : latter's commentary on the Manusmṛti VIII.52 as a place, the com
 :

8. *Bharuci's Commentary on the Manusmṛiti (the Manu-saṣṭra-vivaraṇa, Books 6-12)*, vol. 2. *The Translation and Notes*, ed. by J. DUNCAN M. DERRETT, Wiesbaden, p. 109.

9. *Ibid.*

10. *Ibid.*

11. *Op. cit.*, vol. 1. The Text, Wiesbaden, 1975, p. 96.

11. *Op. cit.*, vol. 1. The Text, Wiesbaden, 1975, p. 96.

abhiyoktā prayoktā diśed dānādhikāraṇa-deśam. atra ca deśa-grahaṇaṃ mentator himself gives a variety of interpretations of *deśa* in the text: *sāmarthyāt sākṣyupalakṣaṇārthaṃ... yasmād āha karaṇaṃ vā samuddiśed* *patra-samjñam vyavahārasthāna eva. ataśca gamyate deśa-grahaṇaṃ karaṇa/lakṣaṇārthaṃ iti/... deśagrahaṇaṃ ca nidarśanārthatvāt kālārthaṃ api draṣṭavyam,* "kasmin deśe kāle tvayā mama pratidattaṃ dhanam" iti »¹². J. D. M. Derrett translates this passage in the following way: « The plaintiff must indicate the "place" where the money was given. In view of the sense of the passage the word "place" here must be understood to imply "witness"... he says "or he should point out the proof", namely the proof in the form of the document, at the place of trial itself. And so even the word "place" must be seen to mean "time" in order to the question, "at what place and time did you pay me the money" »¹³. Thus the commentator offers several interpretations of the word *deśa*, but a « proof » seems to him the most probable one to imply the document, witness and so on. Such version rather corresponds to the interpretation of the *Manusmṛti* mentioned above than to that the « place » interpretation of J. D. M. Derrett. It is possible that *Bhauci* was confused by the meaning of *deśa* in the *Manusmṛti* VIII.45.

In my opinion, the interpretation of this sort in the sense of proof is a derivative from the meaning of the term *deśa* in the *Arthaśāstra* where it implies a kind of *karaṇa*. J. D. M. Derrett notes himself the fact that in the *Arthaśāstra* *karaṇa* is a usual designation of « proof »¹⁴. The very structure of the text of the *dharmaśāstra* (VIII.52) shows *deśa* has there more narrow sense than *karaṇa*, quite similar to the *Arthaśāstra* where *deśa* in its turn should be in the first place understood as a document. In the *Manusmṛti* VIII.53 the text should be also understood not in the sense of *Bharuci*'s interpretation (J. D. M. Derrett follows the latter), i.e. « indicates not the place », but rather in the sense of the *Arthaśāstra* III.1.19, IV.9.15, i.e. as non-proof. The expression « indicates not the place » will be rather conveyed by the formula *na deśamuddiśet* and not by *adeśaṃ diśati* (see the *Manusmṛti* VIII.53).

The process of balancing the system of the juridical terminology which I mentioned above using the *Arthaśāstra* as an example took place at « B »-stage of the integration in *dharmaśāstras* as well. The term *karaṇa* has kept its meaning as a « proof », but *pramāṇa* appears again and is used more often, just as a stereotype element of law system of *dharmaśāstra* and, in my opinion, as a regeneration of the common tradition of *dharmaśāstra*. The juridical term *deśa* of *arthaśāstra* doesn't appear, and *pramāṇa* in its semantics may be intended to imply the semantics of the term *karaṇa* in the *Arthaśāstra*. The most wide-spread meaning of *pramāṇa* in *dharmaśāstras* is a document. The similar

12. *Ibid.*

13. *Bharuci's Commentary*, vol. 2, p. 109.

14. *Op. cit.*, p. 109, n. 2.

semantics of both terms *karāṇa* and *pramāṇa* in *dharmaśāstras* should be explained by peculiarity of the juridical structure of *dharmaśāstras* as compared with that of the *Arthaśāstra*. As far to the term *karāṇa* it gets in *dharmaśāstras* the meaning similar to that one of *pramāṇa* in the *Arthaśāstra*, i.e. an abstract juridical authority, as well.

After the incorporation of the stuff of *vyavahāra dharmaśāstras* were still ritual texts. But at the same time this private admonitions on dharma for the brahmanical pupils became law authorities. It can explain the process during which *arthaśāstra* lost its authority of a law text. It led to a gradual loss of important themes of *arthaśāstra* and its transformation into *nītiśāstra*. We can also observe the acquiring by *dharmaśāstras* of the authority of law texts perhaps in the division of the genre into ritual texts (for example, the *Parāśarasmṛti*) and juridical ones (as the *Nāradasmṛti*), i.e. in the latter case I suppose fixing and composing of a *śāstra* in the form of a separate law text, but this process, in my opinion, began in the first centuries of our era when the genre of *dharmaśāstra* was being composed intencively thanks to influence of *arthaśāstra*.